

REMARKS***Allowable Subject Matter***

Claim 7 is objected to as being dependent upon a rejected base claim, but is otherwise indicated to be allowable if rewritten in independent form to include the subject matter of the base claim and any intervening claims.

At this time, the applicant wishes to maintain claim 7 in its present form so that the comments presented below may be fully considered.

With respect to the present application, U.S. Patent Application Publication No. 2004/0132265 to Maruyama ("Maruyama") is not prior art under 35 U.S.C. 102 or 35 U.S.C. 103

This application has a U.S. filing date of 1 April 2004. Maruyama has a publication date of 8 July 2004. Maruyama's publication date does not precede the applicant's U.S. filing date, so Maruyama does not qualify as prior art under 35 U.S.C. 102(a) or 102(b). MPEP 2132, 2133. 35 U.S.C. 102(c) and 102(d) do not apply to the Maruyama reference. MPEP 2134, 2135. There is no evidence that the applicant derived the invention from Maruyama, so Maruyama is not 35 U.S.C. 102(f) prior art. MPEP 2137. Maruyama does not qualify as prior art under 35 U.S.C. 102(g). MPEP 2138.

For purposes of 35 U.S.C 102(e), Maruyama is prior art as of its U.S. filing date, or 22 December 2003. MPEP 2136. While Maruyama has a foreign priority date of 27 December 2002, the foreign priority date of the reference cannot be used to antedate the application filing date. MPEP 2136.03.

In contrast, the applicant may overcome the 35 U.S.C. 102(e) rejection by proving he or she is entitled to his or her own 35 U.S.C. 119 priority date which is earlier than the reference's U.S. filing date. MPEP 2136.03. The applicant's foreign priority claim of 1 April 2003 was acknowledged, which is earlier than Maruyama's U.S. filing date of 22 December 2003.

In order to perfect the applicant's foreign priority claim, an English translation of the certified foreign priority document as well as a statement that the translation of the certified foreign priority document is accurate is submitted with the paper, in accordance with 37 CFR 1.55(a)(4)(i)(B) and 37 CFR 1.55(a)(4)(ii).

Since it is believed that the applicant's foreign priority claim is perfected, the Maruyama reference is not prior art under 35 U.S.C. 102(e). MPEP 2136.03. Thus,

Maruyama is not prior art under any section of 35 U.S.C. 102. Since prior art available under 35 U.S.C. 102 is also available as prior art under 35 U.S.C. 103, it follows that prior art that is not available under 35 U.S.C. 102 is also not available under 35 U.S.C. 103. MPEP 2141.01(I).

For the above reasons, Maruyama does not constitute prior art for purposes of 35 U.S.C. 103.

Claim Rejections – 35 U.S.C. § 103

Claims 1-3, 6, 8-9 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art (AAPA) in view of Maruyama. The applicant disagrees.

Maruyama is not prior art for purposes of 35 U.S.C. 103. Consequently, AAPA cannot be combined with Maruyama to reject the features recited in independent claims 1 and 8.

Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA and Maruyama in view of U.S. Patent Application Publication No. 2002/0098648 to Ludwig, et al. ("Ludwig"), and further in view of U.S. Patent 6,022,586 to Hashimoto, et al. ("Hashimoto"). The applicant disagrees.

Maruyama is not prior art for purposes of 35 U.S.C. 103. Consequently, AAPA, Ludwig, and Hashimoto cannot be combined with Maruyama to reject the features recited in claims 4 and 10.

Claims 5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA and Maruyama in view of Ludwig. The applicant disagrees.

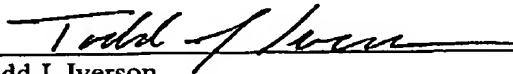
Maruyama is not prior art for purposes of 35 U.S.C. 103. Consequently, AAPA and Ludwig cannot be combined with Maruyama to reject the features recited in claims 5 and 11.

Conclusion

For the above reasons, reconsideration and allowance of claims 1-13 is requested. Please telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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